

# Technical Assistance for Frequently Asked Questions



*Office of Special Education and  
Early Intervention Services*

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## **Purpose**

This document is intended to provide technical assistance for frequently asked questions regarding the provision of special education programs and services in Michigan schools. They are discussions and responses to frequently asked questions and do not have force of law, but include relevant sources of legal authority and policy that do have force of law and impact the questions involved. We hope that they may provide information and points-of-departure for further study and discussion about continually evolving issues in special education. If additional information is needed, it is strongly urged that the readers of this document seek the assistance of legal counsel.

Resource documents primarily include:

### **Federal Regulations:**

- IDEA regulations, 34 CFR 300
- Family Education Rights and Privacy Act (FERPA), 34 CFR 99

### **State Statutes and Regulation:**

- Michigan Revised Administrative Rules for Special Education (July 1, 2002)
- Michigan School Code
- Auxiliary Services Act
- State School Aid Act
- Public Health Code

### **State Policy Documents from the Michigan Department of Education:**

- Application and Procedures for State Board of Education Authorization for Public Agency Placement of a Handicapped Student in a Private School
- Complaint Procedures for Special Education
- Homebound and Hospitalized Services for Public School Pupils
- Inclusive Education Position Statement
- Individualized Education Program Team Manual
- Michigan Monitoring Model
- Michigan Public School Academies (Charter Schools) Questions and Answers
- Michigan Pupil Accounting Manual
- Michigan State Plan for Special Education
- Monitoring Standards for Special Education
- Nonpublic and Home Schools
- Out of State Placement Procedures
- Procedural Safeguards Available to Parents of Children with Disabilities
- Schedule for the Retention and Disposal of Public School Records – Bulletin #522
- Special Education Considerations in Student Discipline Procedures
- State Board Approved Procedures for Prereferral Consultation
- Surrogate Parent Policy
- Utilization of Noncertified Personnel in Elementary and Secondary Schools

Responses to questions and answers include:

**Subject:** A description of the topic

**Specific Question:** A specific question about the topic.

**Response:** A discussion of the question and topic.

**State:** Sources of state authority

**Federal:** Sources of federal authority

**Additional Information:** Discussion of related topics and sources of information.

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## Chapter 1: Administration

Code/Q#	Subtopic
<b>D&amp;H</b>	<b>Days and Hours of Instruction</b>
IDEA	Day, Business Day, School Day – 300.9
D&H-001	Attendance – re-enrollment of dropouts
D&H-002	Attendance – school calendar for ISD-operated programs in separate facility
D&H-002	Calendar – school calendar for ISD-operated programs in separate facility
D&H-003	Early Childhood Special Education (ECSE) program – instructional days and hours
D&H-004	Hours – beginning and ending times of school day
D&H-004	Instructional days – beginning and ending times same as general education
D&H-005	Instructional days – may be shortened by IEP Team
D&H-006	Instructional days – missed days in 230-day programs
D&H-007	Instructional days – required instructional days and hours of instruction
D&H-004	Severe Cognitive Impairment (SCI)/Severe Multiple Impairments (SXI) programs – beginning and ending times
D&H-002	SCI/SXI programs – calendar for ISD-operated programs
D&H-006	SCI/SXI programs – days missed for 230-day programs

### D&H-001

**Subject:** Voluntary school leavers and re-enrollment for students with disabilities

**Specific question:** Can a school district require voluntary school leavers to re-enroll at school-specified times only?

**Response:** No. Resident students who were voluntary leavers are entitled to be immediately enrolled in their resident school district. If the student has an individualized education program (IEP) from a previous enrollment in any district, then the school must provide an appropriate immediate placement pursuant to the previous IEP. The state compulsory attendance law requires continuous attendance for all students from ages 6 to 16 years of age.

**State Authority:** R 340.1722e, School Code §380.1561.

**Federal Authority:** 34 CFR §300.350(1); Appendix A, Federal Register, v. 64, n. 48, Question #17, p. 12476.

### D&H-002

**Subject:** Determination of the school calendar for special education programs in cases without a general education standard

**Specific question:** To what standard does a center-based ISD program draw a school calendar when it has its own general education calendar and there are multiple school calendars across constituent districts?

**Response:** The School Code gives authority to the operating district (which does not exclude center-based ISD special education programs) to set its own school calendar to the general education standards in 380.1284. See also I-035.

**State Authority:** School Code, §380.1284, Michigan Administrative Code §§340.1 to 340.12.

**Federal Authority:** 34 CFR 300.347(a)(3)(iii)

### D&H-003

**Subject:** Minimum days/hours of instruction for early childhood special education programs

**Specific question:** May the length of the instructional day vary so long as the early childhood special education program operates a minimum number of days (144) and total hours (360)?

**Response:** Yes. The number of hours per day an early childhood special education program operates throughout the year may vary, as long as the totals per year meets legal requirements. The IEP should indicate variations from normal building calendars and schedules. For membership, a full FTE is not granted unless the program is operated as required in § 380.1284 of the School Code.

**State Authority:** R 340.1754(b)

**Additional Information:** See the Michigan Pupil Accounting Manual.

#### **D&H-004**

**Subject:** Beginning and ending times for special education programs in buildings housing general education classrooms

**Specific question:** Must special education programs which are housed in general education school buildings begin and end at the same time as the general education programs?

**Response:** Yes, all special education programs housed in general education school buildings are to begin and end at the same times as programs for general education. This is to enable students in special education programs to participate fully in general and special education programs, services, and extracurricular activities.

**Federal Authority:** 34 CFR §300.347(3)

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#### **D&H-005**

**Subject:** Authority of the IEP team to shorten the school day for students with disabilities

**Specific question:** Can an IEP team shorten the school day to provide less than the minimums for all students?

**Response:** Yes. The IEP team may determine that a program that is less than a full school day is appropriate for an individual student. As a starting point in discussing this determination with the IEP team, the district must consider at least a full-time placement that is the same as for the general education student population. See **D&H-007**.

**State Authority:** See **D&H-007**.

**Federal Authority:** See **D&H-007**.

**Additional Information:** Counting membership for pupils attending less than a full day is an important pupil accounting consideration. See relevant sections for part-time pupils in the Michigan Pupil Accounting Manual.

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#### **D&H-006**

**Subject:** Pupil attendance regulations as they apply to 230-day programs for students with severe cognitive impairments and severe multiple impairments.

**Specific question:** The School State Act requires that at least 70% of the pupils must be in attendance for a day to be counted as a day of instruction. Does this requirement apply to 230-day special education programs?

**Response:** No. This requirement is for the purpose of counting membership under the School State Aid Act.

**State Authority:** R 340.1738; 340.1748; Pupil Accounting Rules, R 340.1 to 340.17.

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#### **D&H-007**

**Subject:** Minimum days/hours of instruction for special education programs

**Specific question:** What is the standard for determining the number of hours and days a special education program operates?

**Response:** The number of days and hours a special education program operates must be adequate to fulfill all of the programs specified on the IEPs of the students. Days and hours offered for all elementary and secondary school programs shall not be less than those required in §380.1284 of the School Code. The number of school days and hours are subject to yearly revision. Refer to the State School Aid Act §388.1701(3). For further information, contact the office of State Aid and School Finance. If determined to be appropriate by an IEP team, an extended school year must be made available to students receiving special education.

Early Childhood Developmental Delay programs must operate for a minimum of 144 school days and 360 clock hours. Full-year programs must be offered for a minimum of 230 school days and 1150 clock hours of instruction.

**State Authority:** R 340.1738, 340.1748, 340.1754; School Code §§380.1284, 380.1701; State School Aid Act §388.1701(3)

**Federal Authority:** 34 CFR §300.309, §300.550(1)

**Additional Information:** See **D&H-003**. For computation of membership, see the Michigan Pupil Accounting Manual.

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## Chapter 1: Administration (Continued)

Code/Q#	Subtopic
<b>Fund</b>	<b>Funding and Contracts</b>
Fund-001	Ancillary services – contracting for
Fund-002	Child Find activities – reimbursement for
Fund-001	Contracts – for ancillary services
Fund-002	ECSE screening – reimbursement
Fund-003	Psychiatric hospital placements – are not Section 53
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Fund-004	Reimbursement – not allowed if student is beyond eligible age for special education
Fund-005	Reimbursement – part-time director
Fund-005	Reimbursement – part-time supervisor
Fund-006	Reimbursement – social workers and psychologists, general education
Fund-003	Section 53 – no funding for psychiatric hospital placements
Fund-007	Section 53 - non-custodial parent funding
Fund-008	Sections 53 and 24 – residency, placement, and funding
Fund-009	Tuition - out-of-state placement

### Fund-001

**Subject:** Contracting for related services

**Specific question:** May a local or intermediate district contract with a public or a private agency for the provision of special education related services?

**Response:** Yes, within certain requirements. Staff may provide special education funded services specified on an IEP only if licensed, certified, or approved under R 340.1792. A program or service provided by staff who are not approved special education personnel must be listed on the IEP as a supplementary service and the staff providing that service cannot be claimed for reimbursement from local, state, or federal special education funding sources. In regard to agencies such as public hospitals, the School Code authorizes districts to contract with “an agency approved by the state board for delivery of an ancillary professional special education service.” Approval occurs in the ISD Plan process by indicating in the ISD Plan that such contracts are on file at the ISD.

**State Authority:** School Code, 380.1751(b), R 340.1781, 340.1792, 340.1832(1)(c)

**Federal Authority:** 34 CFR §300.136

### Fund-002

**Subject:** Special education reimbursed personnel evaluating regular education students

**Specific question:** When may a special education reimbursed professional begin service to a regular education student?

**Response:** School personnel may be reimbursed as special education personnel only for the portion of time actually spent providing special education programs and services, with the exception of personnel providing programs and services to youth in juvenile detention facilities. Special education reimbursed evaluation activities with general education students, therefore, are reimbursable only when the student has been properly referred for special education. Special education reimbursed personnel may provide prereferral consultation to general education personnel in accordance with procedures established by the department. In general, department policy limits prereferral consultation to direct interaction with general education personnel or student observation and excludes direct interaction with general education students not in referral. Activities conducted outside of these procedures are reimbursable from general education funding sources.

**State Authority:** State School Aid Act, 388.1651a(7)(a), R 340.1721a(3)

**Federal Authority:** 34 CFR §300.184

**Additional Information:** See Procedures for Prereferral Consultation, Michigan Department of Education, 1987.

### Fund-003

**Subject:** Section 53 funding for hospital placements (including psychiatric hospitals)

**Specific question:** Can students placed in a hospital by their parents from outside the intermediate school district be classified as section 53a under the category of “...placed by parents for the purposes of finding a suitable home?”

**Response:** No. Students are not placed by their parents in a private hospital for the purpose of finding a suitable home. Students are hospitalized for medical treatment. Eligible students are to receive hospitalized services under Rule 340.1746 from the resident district. It is the responsibility of the local district in which the hospital is located to make homebound and hospitalized services available to eligible students. If the student is hospitalized outside of the district of residence, the district of residence is responsible for delivering the service or for contracting with the operating district and making payment for the services.

**State Authority:** State School Aid Act, §388.1653a(f), R 340.1732(1), 340.1746(f)

**Federal Authority:** 34 CFR 300.551(b)(1)

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#### **Fund-004**

**Subject:** Students over age 26

**Specific question:** Under what conditions may a school district serve a student with disabilities who is over age 26?

**Response:** Nothing in state law or regulation prohibits a district from serving students beyond age 26. Students beyond the age limit, however, cannot be counted for the federal count, or for membership for state, intermediate, or local district reimbursement.

**State Authority:** State School Aid Act, 388.1606(4)(l)

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#### **Fund-005**

**Subject:** Part-time Director and Supervisor of Special Education

**Specific question:** May a special education administrator who works exclusively with summer special education programs be claimed for reimbursement on the final cost report?

**Response:** Each ISD must employ a full-time Director of Special Education. Local districts may employ and claim for reimbursement a Director of Special Education as long as the assignment of that person as Director is at least one-half of a full-time position. Intermediate or local districts may employ and claim for reimbursement a Supervisor of Special Education provided that one-half of that person's total assignment (a total assignment which could be less than full time) is as a Supervisor. In any case, summer assignments may be counted toward the assignment of a Director or Supervisor.

**State Authority:** R 340.1750, 340.1751.

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#### **Fund-006**

**Subject:** Related service providers (e.g., occupational and physical therapists, teachers of the speech and language impaired, school social workers, teacher consultants)

**Specific question:** May related service providers who are fully funded under special education serve general education students?

**Response:** Special education funded related service providers who are fully funded under special education can serve general education students only indirectly (e.g., observation, consultation) through prereferral consultation under policies established by the department. Otherwise, special education staff cannot provide direct services that receive special education funding support. When submitting costs for special education funding, costs claimed for the service provider must reflect the portion of the providers time actually spent directly providing special education services to students.

**State Authority:** State School Aid Act, §388.1651a(7)(a)

**Additional information:** See Procedures for Prereferral Consultation by Special Education Personnel. Also see Cont-008.

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#### **Fund-007**

**Subject:** Section 53 funding for non-custodial parents

**Specific question:** Can section 53 funds be claimed if a child of divorced parents is living with a non-custodial parent who lives in an intermediate school district which is not the same ISD as the residence of the custodial parent?

**Response:** No. Section 53 funds may not be claimed because Rule 340.1732 indicates that the student would have resident status in this case. The student, without regard to whether a parent or legal guardian has custody of the child, shall be considered to be a resident of a school district in which either of the child's parents reside and may enroll in the resident district of either divorced parent.

**State Authority:** R 340.1732

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**Fund-008****Subject:** Residency**Specific question:** How is the district of residence determined for a student with a disability? Who is responsible for providing the educational program? What, if any, financial provisions are made for each determination of residency?**Response:** In most cases, the student lives with the parent(s) in a public district where the student attends school. That same district is the student's resident district, which is responsible for the student's education. The chart below indicates when the facts of a particular case differ:

<b>A placement is made by:</b>	<b>District responsible for providing education</b>	<b>District of residence</b>	<b>Special financial provisions</b>
1. an educational agency to a district outside the district of residence.	District that enrolls the student	District where the parent lives	The educational agency making the placement is responsible. See <b>Out of State Placement Procedures</b> .
2. the parent, for the purposes of a suitable home, to a home or facility in a public district outside of the district of residence.	District where the home or facility is located	District where the home or facility is located	100% Section 53 funding if parent lives in Michigan, but outside of the ISD where the home or facility is located.
3. the parent, to another public district within the ISD under schools -of-choice, sec. 105	District that enrolls the student under sec. 105	District which enrolls the student	The student is funded as any other similar student with disabilities in the enrolling district.
4. the parent, to another public district outside of the ISD under schools -of-choice, sec. 105c	District that enrolls the student under sec. 105c	District where the parent resides	The sending and receiving districts must contractually agree on costs related to special education needs.
5. the parent, to a public school academy (PSA)	The Public School Academy (PSA)	The PSA which enrolls the student is responsible for all educational programs/ services.	The PSA student is funded as any other similar student with disabilities in a public district.
6. the parent, to a nonpublic school	Public district where nonpublic school is located is responsible for related services	District where the parent lives	The public district where nonpublic school is located is responsible for costs of related services.
7. either one of separated or divorced parents who live in different districts	District enrolling the student. The student may enroll in one of the districts, regardless of custody. The enrolling district is responsible for applicable transportation services within its borders.	District enrolling the student	The student is funded as any other similar student with disabilities served by the district.
8. Community Health, Family Independence Agency, or court-placed into a juvenile detention facility	Public district where the residential facility is located	District where the parent or guardian lives, or the district where the court is located if the student is a ward of the court	The operating district may claim Sec. 24, 52 or 53 funding as applicable.
9. a student 18 years of age or older	District where the student lives	District where the student lives	The student is funded as any other similar student with disabilities in the district.

**State Authority:** 1. School Code, §380.1751(1)(b); 2. R 340.1732(1), State School Aid Act, 388.1653a; 3. State School Aid Act, §388.1705; 4. State School Aid Act, §388.1705c; 5. School Code, §§380.501, et seq., State School Aid Act, §388.1603(5-6); 6. Auxiliary Services Act, §380.1296; 7. School Code, §380.1148a; 8. R 340.1832(1), State School Aid Act, §§388.1624, 1652, 1653a 9. R 340.1701b(e)

**Federal Authority:** 9. 34 CFR §300.517

**Fund-009**

**Subject:** Out-of-state placement

**Specific question:** Who pays for the education of a student with disabilities when placed by an IEP team in an institution in another state?

**Response:** The resident district is responsible for costs associated the educational placement in another state. If the out-of-state placement is in a county that is adjacent to Michigan, then state, local, or federal funding sources may be used to cover the costs. If the placement is in a more distant location, only federal funding sources may be used. The state may, at its discretion, allocate federal funding to the local district to help cover the costs of an out-of-state educational obligation. The resident district is responsible to conduct the IEP team meeting for the student.

**State Authority:** School Code, §380.1751(1)(b)

**Federal Authority:** 34 CFR §300.121(a)

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## Chapter 1: Administration (Continued)

Code/Q#	Subtopic
<b>Pers</b>	<b>Personnel</b>
Pers-001	Caseloads – split assignments and departmentalized programs
Pers-001	Departmentalized programs – teachers’ case loads
Pers-002	Director – Master’s degree or equivalent
Fund-005	Director – part-time, reimbursement
Pers-003	ECSE program – preprimary teachers may not team teach
Pers-003	General education – team teaching with special education
Pers-004	Occupational therapy assistants – qualifications
Tran-001	Paraprofessionals – on school bus for disruptive students
Pers-005	Paraprofessionals – ratio in SCI or SXI program
Pers-006	Paraprofessionals – role in providing related services
Pers-004	Physical therapy assistants – qualifications
Eval-003	Psychologist – limited license
Pers-007	Psychologist – must be fully licensed for school evaluation (exception for interns)
Pers-003	Related service providers – may not team teach
Pers-006	Related services – qualifications and consultation
Pers-005	SCI programs – paraprofessional ratios
Fund-006	Social worker – counseling general education students
Pers-006	Speech/language services – indirect consultation
Pers-008	Speech/language teachers
Pers-009	Substitutes for paraprofessionals
Pers-003	Speech/language teachers – may not provide speech/language services as a team teacher
Pers-002	Supervisors – Master’s degree or equivalent
Pers-003	Teacher consultant – may not team teach

### Pers-001

**Subject:** Caseloads for special education personnel in a split assignment, part-time assignment, or departmentalized program

**Specific question:** Questions related to case loads for teachers with split assignments

**1. May a teacher who is a teacher consultant be given a split assignment as part-time teacher and part-time teacher consultant? What is the caseload?**

**Response:** Yes, a split assignment is permissible. The teacher may not serve in both roles at the same time unless an alternative program/service is approved in the ISD Plan. When the teacher functions as a teacher consultant, services must be provided in accordance with R 340.1749 in providing the teacher consultant services specified on an IEP. Three options are available for determining caseload for the split assignment:

- the maximum caseload is 20; the number of students served in the teacher’s categorical or resource program portion of the assignment may not exceed the maximum by rule for the type of classroom program; the balance of the total case load (up to 20) may be served when the teacher provides teacher consultant services; or
- the maximum caseload is 25; the number of students served in the teacher’s categorical or resource classroom assignment may not exceed the maximum by rule for the type of program; the balance of the total caseload (up to 25) may be served when the teacher provides teacher consultant services; and students who are receiving both a classroom program and teacher consultant service from the same teacher must be counted twice in determining the caseload.

(c) Caseloads for teachers assigned to an alternative program/service via the ISD Plan are identified in the Plan.

**2. What is the maximum caseload for a part-time teacher?**

**Response:** For a part-time special education teacher, the caseload is the same as for a full-time teacher. If the teacher is employed part-time in each of two districts, the teacher’s caseload in a specific district is the maximum full-time caseload multiplied by the percent of time spent in that specific district. Part-time professionals who

provide instructional services (e.g., teacher consultant, teacher of the speech and language impaired, teacher of the homebound/hospitalized) will have a prorated caseload determined by multiplying the maximum full-time caseload by the percent of time the teacher is assigned to special education.

**3. In a departmentalized program, can one of the special education teachers be available to provide support to students during an hour when the other teacher(s) in the departmentalized program are teaching a board-approved course? What are the caseload parameters?**

**Response:** Yes, this practice is acceptable. The student's study skills period should be indicated on the student's IEP and is considered part of the special education teacher's departmentalized assignment. The number of students participating during this period would become part of the allowed average of 10 students per instructional class period as described in R 340.1749c. The teacher may not teach a course and provide instructional assistance at the same time, although an approved ISD Plan may indicate exceptions.

**4. What is the maximum caseload for a special education teacher who serves in an assignment split between two different special education programs?**

**Response:** The teacher's maximum caseload is the greatest maximum of the two maximum caseloads in rule for the programs involved. The maximum number of students served in each portion of the assignment may not exceed the maximum by rule for each type of program (An approved ISD Plan may indicate exceptions).

**State Authority:** R 340.1749c

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## Pers-002

**Subject:** Qualifications of special education Directors and Supervisors

**Specific question:** What is meant in regard to "master's degree or equivalent" in the rules stating the criteria for Director and Supervisor?

**Response:** The phrase means that a master's degree is the entry level degree required for approval. A higher degree than a master's degree may also be accepted as "equivalent."

**State Authority:** R 340.1771(1)(a); 340.1772(1)(a)

**Federal Authority:** 34 CFR §300.136(a)(2)

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## Pers-003

**Subject:** Team teaching with special education and general education teachers

**Specific Question:** Questions related to team teaching when special education teacher(s) and/or a general education teacher are teaming

**1. What does team teaching mean within special education?**

**Response:** The term "team teaching" refers to an approach to program delivery in which two or more teachers simultaneously share teaching responsibilities for a group of students by interacting with all of the students in the classroom. The following responses refer to team teaching as it applies to teams of two or more special education teachers or a team consisting of a special education and a general education teacher.

**2. Under what circumstances may two or more special education teachers team teach?**

**Response:** Two or more special education teachers may team teach while maintaining separate caseloads. Each teacher is responsible for grading, assigning credit, and implementing IEPs of students assigned to his/her caseload. Both teachers must be present in the classroom and qualified substitute teachers must be utilized in the absence of either special education teacher.

**3. Under what circumstances may special education teachers and general education teachers team teach?**

**Response:** The following criteria must be satisfied:

- Both the special education teacher and general education teacher must be present at the same time.
- The general education teacher will assume the responsibilities of grading and assigning credit for students who are receiving general education during the instructional period.
- The special education teacher will assume the responsibilities of grading and assigning credit for students who are receiving special education during the instructional period. The special education teacher must be responsible for the instruction of at least one student who is receiving special education in the team-taught class.
- Qualified substitute teachers are utilized in the absence of either the special education teacher or the general education teacher.

**4. Which special education personnel may team teach?**

**Response:** Only special education teachers may team teach, i.e., categorical program teachers and resource program teachers. Instructional service providers and related service providers may not team teach.

**5. May team teaching between general and special education be combined with a departmentalized method of service delivery?**

**Response:** Yes, provided that the requirements of R 340.1749c are met for all of the students in the departmentalized special education program.

**6. Are all of the students with disabilities automatically considered to be in general education during team teaching between general and special education?**

**Response:** No. While attending a specific team taught general class, a student with an IEP may be in general education or the student may be in special education because it is specified on the IEP that the student is receiving categorical or resource

program instruction in special education for that subject area. If the student is designated to be in special education while attending the team taught general class, all rules for categorical, resource, and departmentalized programs continue to apply. The student's time in the general education classroom, while receiving a special education program, is applied to his/her FTE in special education.

**7. Team teaching between general and special education addressed in a student's IEP?**

**Response:** Team teaching in itself is not addressed on an IEP. The student's IEP indicates an amount of time in a special education programs. Team teaching is a particular approach to delivery of special education programs. Team teaching is implemented at the discretion of the teachers and school administrators.

**8. While a teacher consultant may not team teach, may the teacher consultant interact with general education students while supporting the student with an IEP who is attending the general education classroom?**

**Response:** Yes.

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**Pers-004**

**Subject:** Occupational and physical therapy assistants

**Specific question:** Can occupational and physical therapy assistants provide therapy required in the IEPs of students with disabilities?

**Response:** Yes. A school district may utilize an physical therapy assistant to provide therapy if the assistant is supervised by a registered physical therapist. A school district may also utilize an occupational therapy assistant to provide therapy if the assistant is supervised by an occupational therapist. These assistants may provide therapy under the supervision of a fully qualified therapist, but may not conduct evaluations, interpret a physician's referral, or create a treatment plan. Therapists' assistants are authorized to provide service under R 340.1792, which describes the licensure, certification, or approval of supportive professional personnel

**State Authority:** R 340.1792

**Federal Authority:** 34 CFR §300.136

**Additional Information:** See **Pers-006** regarding the utilization of personnel with professional qualifications but who are not approved special education personnel.

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**Pers-005**

**Subject:** Student/Staff ratio in programs for students with severe cognitive impairments and programs for students with severe multiple impairments

**Specific question:** Is an additional aide required for the 7<sup>th</sup> student assigned to a program for students with severe cognitive impairments or programs for students with severe multiple impairments?

**Response:** Yes. The special education teacher assigned to the program is not to be a factor in the determination of the ratio of staff to students. By rule, the teacher is responsible for the instructional program and coordinates the activities of the aides(s). The ratio of concern is the number of aide(s) to students. An aide can assist no more than 6 students. A 2<sup>nd</sup> aide is required when the 7<sup>th</sup> student is assigned to the program. A third aide is required when the 13<sup>th</sup> student is assigned to the program.

**State Authority:** R 340.1738(a)

**Additional Information:** This same method of determining the ratio of aide(s) to students also applies to programs for the severely multiply impaired [340.1748(a)], pursuant to parallel language in rule.

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**Pers-006**

**Subject:** Consultation, and related services

**Specific question:** Questions related to consultative and related services

**1. If a child is to receive PT, OT, speech therapy, social work, psychological or audiological services, must these services be provided by an appropriately qualified professional?**

**Response:** All programs and services that are indicated on the IEP as special education related services must be delivered by special education approved personnel. This requirement does not prohibit, but significantly limits, activities by other professional practitioners who are not approved special education personnel. The activities of such practitioners must not be specified as special education related services on the IEP, must not replace the mandated functions for approved personnel, or be claimed under the title of approved personnel for special education funding from federal, state, or local sources (see the example in for social workers in Additional Information below). Also note that some related service providers (e.g., OT and OT assistants, and PT and PT assistants) may be professionally licensed, certified, or registered under R 340.1792 (see **Pers-004**).

**2. May an IEP team determine that a student receive a consultative service which is an indirect special education service?**

**Response:** Yes. The IEP should be clear whether what is to be provided is direct service, consultative service, or both, as appropriate. For each type of special education service, the IEP should indicate the frequency and amount of time the direct and/or consultative services are to occur. If the student only receives services in this manner,

there must be at least one annual goal with associated short-term objectives. All students served should be counted as part of the caseload of the service provider, as applicable.

**State Authority:** 1. State School Aid Act, 388.1651a(7)(a) 2. 340.1722(1), 340.1721d(1)

**Federal Authority:** 1. 34 CFR §§300.136, 300.184 2. 300.551(a), 300.347(a)(3)

**Additional Information:** 1. A person certified as a social worker under the Michigan Public Health Code but who is not approved as a school social worker by the department of education: (a) cannot use the title of “school social worker,” (b) cannot perform the mandated functions of a school social worker during evaluations or describe their activities as “school social work” on an IEP, and (c) cannot be claimed as a school social worker for special education funding from federal, state, or local sources (Public Health Code, 333.18501 et seq., R 340.1101 et seq., 340.1701b(b)). For school social work, such a person could function and be claimed (e.g., on the SE-4096) for special education funding as a paraprofessional.

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#### **Pers-007**

**Subject:** Psychological evaluations

**Specific question:** Questions related to qualifications for psychologists

**1. Who is qualified to do evaluations that require a psychologist?**

**Response:** The title “psychologist,” for the purposes of the special education rules, is defined as an approved Michigan school psychologist or a Michigan fully licensed psychologist. Note that limited licensed psychologists are not included in this definition.

**2. Can an approved psychologist review and sign an evaluation completed by a lesser-trained person?**

**Response:** Evaluations conducted by a lesser trained person are acceptable in this manner only if that person holds a preliminary school psychologist certificate as part of a university training program and is under the local supervision of a fully approved school psychologist.

**State Authority:** 1. R 340.1799e; Michigan Administrative Code §380.201 et seq., Public Health Code 333.18201 et seq. 2. Michigan Administrative Code §380.204

**Federal Authority:** 1. 34 CFR §300.136

**Additional Information:** School districts that utilize a fully licensed psychologist should be aware that not all fully licensed psychologists are trained to do educational evaluations. Evaluations done by persons without sufficient training could result in liabilities related to hearings or other legal actions against a school district.

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#### **Pers-008**

**Subject:** Teachers of students with speech and language impairment acting as classroom teachers

**Specific question:** May teachers of the speech and language impaired act as teachers in a special education program?

**Response:** Yes, under certain limited circumstances. Persons who possess an endorsement on a Michigan teaching certificate for teaching of students with speech and language impaired may act as the classroom teacher in a program for students with severe language impairment under R 340.1756, in a resource program under R 340.1749a-b, or in a program defined in an approved ISD R 340.1832. Otherwise, a teacher of students with speech and language impairment may serve as the classroom teacher in any special education categorical program only if he or she has the additional required endorsement on their teaching certificate appropriate for the specific assignment.

**State Authority:** R 340.1749a-b, 340.1756, 340.1832

**Federal Authority:** 34 CFR §300.136

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#### **Pers-009**

**Subject:** Substitutes for paraprofessionals

**Specific question:** Are school districts required to provide a substitute for a paraprofessional when the paraprofessional is absent?

**Response:** Substitute paraprofessionals are required for all programs for students with cognitive impairments and programs for students with severe multiple impairments. Substitutes must also be provided if a paraprofessional is specified on a student’s IEP.

**State Authority:** R 340.1733(j)

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## Chapter 1: Administration (Continued)

Code/Q#	Subtopic
<b>P&amp;S</b>	<b>Programs and Services</b>
P&S-001	Age of students in ECSE program – less than 6 years old on State Fall Count day
P&S-015	Approved alternative assessments
P&S-002	Auxiliary services - across districts - nonpublic schools
P&S-003	Central registry - maintenance of information
P&S-003	Destruction of records - central registry
D&H-001	Dropouts - re-enrollment
P&S-004	Four-day week for special education students
Cont-004	General education programs and the IEP
P&S-005	Guardians - schools' role if parents not available
P&S-006	Homebound services – pregnant students
P&S-007	Immunization - required for attendance
Fund-001	ISD Plan - contracts with hospitals for OT, PT, speech therapy
P&S-008	Juvenile detention - educational programs and funding options
P&S-009	Least restrictive environment – ECSE programs
P&S-010	Occupational therapy
Cont-008	Occupational therapy – may be only a service
Fund-009	Out-of-state placements -nonpublic schools
P&S-011	Placement of students at MSD or MSB
Cont-008	Physical therapy – may be only a service
Fund-008	Residency - determination of school placement
P&S-012	Residential placement - for evaluation, education, or suitable home
Pers-003	Resource room program - resource teacher may team teach
Fund-007	Section 53 - noncustodial vs. custodial parent
P&S-013	SCI/SXI programs - age range
Pers-003	Team teaching - special education and general education teachers

### P&S-001

**Subject:** Placement of a 6-year old student in an early childhood special education program.

**Specific Question:** Can a student who will become 6 years of age during a school year be placed in an early childhood special education program under R 340.1754 or receive services under R 340.1755?

**Response:** If the student is less than 6 years of age on the fall count in September, the student may complete the school year in an early childhood special education program or service. Students older than 6 years of age may be placed in an early childhood special education program only with a deviation. Services to students older than 6 may be offered as a related service in the same manner as for other K-12 students.

**State Authority:** R 340.1754, 340.1755

### P&S-002

**Subject:** Auxiliary Services

**Specific question:** Who provides auxiliary services to a student residing in District A and attending a nonpublic school program located in District B?

**Response:** The public school district where the nonpublic school is located is required to provide, or contract to provide, the auxiliary services, which include special education related services. In this example, District B is responsible for the provision of special education services to students attending nonpublic schools in their district.

**State Authority:** School Code §380.1296, Michigan State Plan for Special Education (Chapter X)

**Federal Authority:** 34 CFR §§300.24

**Additional information:** See Attorney General's Opinion No. 7014, April 9, 1999. Provisions for auxiliary services at §380.1296 in the School Code (Auxiliary Services Act) do not apply to preschool students. The IDEA mandates participation of nonpublic school students in Part B of that act. Toward that end, the Michigan School

Code, the Revised Administrative Rules for Special Education, and the Michigan State Plan for Special Education specify that nonpublic school students in Michigan are afforded auxiliary services on an equal basis to auxiliary services provided to elementary and secondary public school students

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**P&S-003**

**Subject:** Central registry

**Specific question:** How long must information be kept on the ISD's central registry?

**Response:** Information on the central registry is for administrative purposes; however, this information is also considered to be an educational record and is therefore subject to state and federal rules regarding confidentiality. The central registry contains a variety of information. Schedules for retention and disposal vary depending upon the type of information, as described in Bulletin No. 522 of the Michigan Department of Education. The intermediate school district does not have to notify the parent that information is being taken off a computer or out of a file as long as original files are being kept elsewhere in the intermediate or local school district.

**State Authority:** School Code, §380.1711(1)(f); R 340.1861. Schedule for the Retention and Disposal of Public School Records (Bulletin No. 522, Revised), Michigan Department of Education.

**Federal Authority:** Family Educational Rights and Privacy Act (FERPA), 34 CFR 99 et seq.

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**P&S-004**

**Subject:** Four day week for special education students

**Specific question:** Can a school district operate a special education program four days per week as long as it fulfills its obligation to provide each student with the mandated minimum clock hours and days of instruction?

**Response:** No. In addition to the minimum number of days and hours of instruction (see **I-035**) the schedule must also provide a student with a disability an opportunity to participate fully in extracurricular and other nonacademic activities in the general education program. Deviating from general education standards is an individualized decision made by each student's IEP team. A unilateral scheduling decision by the district for special education programs cannot replace or override the decision by the IEP team.

**State Authority:** R 340.1722(3), 340.1733(b and g)

**Federal Authority:** 34 CFR §300.347(3)

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**P&S-005**

**Subject:** District responsibility regarding unresponsive parents

**Specific questions:** Questions related to parents who are unresponsive to the special education process

**1. In the event that a parent or guardian can be identified but, for whatever reason, refuses to participate in the special education process, does the district have a responsibility to notify the appropriate court and request the court to take action?**

**Response:** No. For any reevaluation, the district may proceed with the reevaluation if it can demonstrate reasonable but unsuccessful attempts to contact the parent. In cases other than reevaluation, if the parent refuses to respond to requests for a required consent, or if the parent has been contacted but explicitly denies consent, then the district may use due process hearing procedures to seek the authority to proceed. See **Cons-002** for instances where parent consent is required in the special education process.

**2. What is the district's responsibility to provide a surrogate parent?**

**Response:** It is the responsibility of the district to ensure that the rights of a student are protected when there is no parent available to represent the student. Under Michigan rules, when no parent or legal guardian can be identified, or if the public agency, after reasonable effort, cannot discover the whereabouts of a parent or legal guardian, the public agency shall notify the court of jurisdiction and request the court to take action to assure that the person has a legal guardian. In such cases (and including cases when the student is a ward of the state) the duty of the district also includes the assignment of an individual to act as a surrogate for the parents in all matters relating to the identification, evaluation, and educational placement of the student. The need for a surrogate does not relieve the district from the responsibility of notifying the court as described above. R 340.1725f requires each public agency to appoint persons to serve as surrogate parents. The agency must describe procedures used to train and maintain a pool of persons to act as surrogates. An individual may act as a surrogate for the parent when: (1) they are not an employee of any state or local education agency involved in the care or education of the student, (2) the surrogate has no interest that conflicts with the interests of the child, and (3) the surrogate has adequate knowledge and skills to provide adequate representation of the student. The district may also select as a surrogate a person who is an employee of a nonpublic agency if that agency only provides non-educational care of the student and meets the criteria above.

**State Authority:** 1. R 340.1724; see **Cons-002** 2. R 340.1725f

**Federal Authority:** 1. 34 CFR 300.505(b and c); see **Cons-002** 2. 34 CFR 300.515

**Additional Information:** For surrogate and foster parent related issues see also Surrogate Parent Policy, Michigan Department of Education.

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#### **P&S-006**

**Subject:** Homebound services to pregnant students

**Specific question:** Can special education services be provided to pregnant students?

**Response:** Yes, but only to pregnant students who also happen to otherwise be eligible for special education. Pregnancy in itself is not an eligibility for special education. Pregnancy also does not preclude any appropriate "in-school" placement.

**Federal Authority:** 34 CFR §300.350(1)

**Additional information:** Refer to the policy brief: Homebound and Hospitalized Service for Public School Pupils, Michigan Department of Education.

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#### **P&S-007**

**Subject:** Immunization of special education students

**Specific question:** Which comes first, the special education mandate or the immunization mandate?

**Response:** As for any other general education student in the district, certain immunizations (or exemptions) are required for enrollment and, in some cases, continued enrollment. However, if the student is exempted from immunization, the IEP should indicate that an occurrence of a disease against which the student is not protected will result in removal from the general school population. The IEP Team will reconvene to re-determine placement.

**State Authority:** Public Health Code, 333.9208; School Code, 380.1177(1).

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#### **P&S-008**

**Subject:** Juvenile detention facilities

**Specific question:** Questions related to juvenile detention facilities

**1. Who is responsible for providing programs in juvenile detention facilities?**

**Response:** The district in which the facility is located is responsible for providing the educational program and for record maintenance. In practice, this responsibility is sometimes met by arrangements stipulated in the ISD Plan.

**2. Does the school district where the juvenile facility is located have to provide the program at the juvenile detention facility, or could the district transport the students to its own facility?**

**Response:** The location of the program would be subject to restrictions specified by the court, which could be in either location.

**State Authority:** R 340.1732, 340.1757.

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#### **P&S-009**

**Subject:** Classroom location for early childhood special education programs

**Specific question:** Do special education age range rules within buildings apply to early childhood special education programs? May such programs be housed in secondary buildings or buildings that house center-based programs?

**Response:** Early childhood special education programs may be housed in buildings with secondary or center based programs. The student's home or other natural environment is considered to be the least restrictive environment. School districts are not required to establish general education preschool programs to provide integrated opportunities or contract with daycare centers, Head Start, or other early childhood programs to provide integrated opportunities unless specified in the IEP or IFSP.

**State Authority:** R 340.1733(b)

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#### **P&S-010**

**Subject:** Occupational Therapy

**Specific question:** Are medical prescriptions required for the delivery of occupational therapy service?

**Response:** No. There is no requirement (as there is for physical therapy) for a prescription for the delivery of occupational therapy as a special education related service.

**State Authority:** None exists.

**Additional Information:** While special education occupational therapy services may be delivered without a prescription, a prescription for occupational therapy is required for school-related Medicaid funding. Check current Medicaid standards for more information.

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**P&S-011****Subject:** Placement of students at MSD or MSB**Specific question:** Can an IEP team determine that a student is to be placed at the Michigan School for the Deaf (MSD) or the Michigan School for the Blind (MSB)?**Response:** Yes, with the provision that representatives of MSB or MSD are invited to the IEP team meeting and placement in MSB or MSD is made pursuant to procedures given by the MDE.**State Authority:** R 340.1721e**Additional Information:** See Michigan State School for the Deaf, Operational Procedures; Michigan State School for the Blind, Operational Procedures.**P&S-012****Subject:** Residential care**Specific question:** Must a school district provide room and board when it is necessary to implement the programs and services specified in an IEP?**Response:** Yes, if the placement is made for educational reasons. The district is responsible for room and board if that district places the student, through an IEP, to a program that requires the student to live in a place other than the home in order to benefit from the educational program. Exceptions to this provision for room and board costs are the Michigan School for the Blind and the Michigan School for the Deaf, which may, nonetheless, charge the resident district for educational costs. For residential placements made by non-school agencies, room and board costs are the responsibility of the agency making the placement.**State Authority:** School Code, 380.1757.**P&S-013****Subject:** Age range of students assigned to special education classes**Specific question:** Is a child over 16 years of age automatically given a legal age of 16 for purposes of calculating a four or six year age span?**Response:** The following chart summarizes age span requirements when assigning students to special education classrooms:

Location of program	Program	Age Span
Separate facility	All except SCI, SXI	Under 16: 4 years 16 and older: up to age 26
Elementary buildings	All except SCI, SXI	6 years or the age span of the building, whichever is less
Secondary buildings	All except SCI, SXI	Middle School: age range of the general education students High School: up to age 26
Any location	SCI, SXI	Under 16: 6 years 16 and older: up to age 26

SCI, Moderate CI and SXI programs may operate with age spans that exceed the above if included in an approved intermediate school district plan in Section 1.6.

**State Authority:** R 340.1733(b)(f)**Additional Information:** See Michigan's Guide to Completing the Intermediate School District Plan, R 340.1832(1)(d, e)**P&S-014****Subject:** Waivers from the Administrative Rules for Special Education**Specific question:** Can a district continue to request waivers from the Administrative Rules for Special Education?**Response:** Yes. The waiver process is based on statute.**State Authority:** School Code, §380.1281**P&S-015****Subject:** Approved alternative assessments**Specific question:** Is there a list of approved alternative assessments until MI-ACCESS Phase II is approved?**Response:** For up to date information on the state assessment program, visit the MDE web site using the URL of: [http://www.mi.gov/documents/MI-Access\\_Index\\_13923\\_7.html](http://www.mi.gov/documents/MI-Access_Index_13923_7.html)**Federal Authority:** 34 CFR §300.138

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## Chapter 2: Complaints and Hearings

Code/Q#	Topic
<b>C&amp;H</b>	<b>Complaints and Hearings</b>
IDEA	Sections 300.660-662 – Complaints (See pp12646-12647 Attachment I)
IDEA	Sections 300.500-517 - Hearings (See pp12612-12616 Attachment I)
Conf-001	Confidentiality of information when third party files a complaint

### Chapter 3: Confidentiality

Code/Q#	Topic
<b>Conf</b>	<b>Confidentiality</b>
IDEA	Sections 300.560-577 (See pp12641-12643 Attachment I)
FERPA	All Sections
Conf-001	Confidentiality of information when third party files a complaint
P&S-003	Destruction of records - central registry

#### Conf-001

**Subject:** Confidentiality of information when a third party files a complaint

**Specific question:** Is it permissible to accept a third party complaint without parent permission to share information about his/her child and/or requiring the parent to be present at the meeting with the third party for the purpose of lodging the complaint?

**Response:** The intermediate school district or state department of education may process a complaint without parent permission. The investigating agency may also investigate the complaint (including meeting with the third-party complainant without the parent, as appropriate) without disclosing personally identifiable information to the complainant. After the complaint is investigated, the investigating agency may release the investigation report to the complainant only if parent permission to do so has been obtained. While state complaint procedures indicate that the investigation report must be filed with the complainant, the filing must be conducted within the requirements regarding confidentiality of information in state and federal regulations.

**State Authority:** R 340.1851, 340.1871

**Federal Authority:** Family Education Rights and Privacy Act, 34 CFR §99.30.

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## Chapter 4: Consent

Code/Q#	Topic
<b>Cons</b>	<b>Consent</b>
IDEA	Sections 300.505; .571; .500; 505; .501; .571
Fund-004	Age limit - services to students over age 26
P&S-001	Age of students in ECSE program - less than 6 years old on State Fall Count day
Cons-001	Attendance - parent cannot unilaterally withdraw student from special education
Ref-001	Consent - for evaluation, initial referral ( See pp12449-12450 Attachment I of IDEA)
Eval-003	Consent - for initial evaluation, medical, and personality tests
P&S-005	Consent - parent does not respond, district responsibility
Cons-002	Consent - when required, parent refusal

### Cons-001

**Subject:** Withdrawal from special education

**Specific question:** Does the parent have the right to unilaterally withdraw their child from special education?

**Response:** No. Withdrawal from special education is a change in educational placement and it is clear that the responsibility for a change of placement rests with the IEP team. Neither the district nor the parent may unilaterally remove a student from a special education placement without following the IEP team process. A parent may initiate a review of the current IEP and initiate a due process hearing if they disagree with a school proposal to continue a placement in special education.

**State Authority:** R 340.1722(1)

**Federal Authority:** 34 CFR §300.347(a)(3)

**Additional Information:** See **Eval-001** regarding evaluation obligations related to cessation of special education.

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### Cons-002

**Subject:** Parent consent

**Specific question:** What is meant by “consent is voluntary and may be revoked at any time” in the definition of consent?

**Response:** A parent may revoke consent at any time to terminate an activity not already completed. Consent cannot be withdrawn retroactively (i.e., does not negate an action that has occurred after the consent was given and before the consent was revoked). For example, consent could be revoked for an evaluation that is in process, but the revocation would not remove the results of any testing already completed from the student’s educational record. Parent consent is required in four instances: (1) consent for any evaluation or reevaluation, (2) consent for medical or personality assessment, (3) consent for the initial provision of special education programs or services, and (4) consent for immediate placement upon enrollment in a new school district.

**State Authority:** R 340.1722e

**Federal Authority:** 34 CFR §§300.500, 300.505

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## Chapter 5: Evaluation

Code/Q#	Topic
<b>Eval</b>	<b>Evaluation</b>
IDEA	IEE - 300.502
Eval-001	Cessation of special education/return to general education
Eval-002	DCH/FIA evaluations
Eval-003	District obligations - independent educational evaluation (IEE)
Cont-002	Emotional impairment – definition, eligibility, “extended period of time”
Eval-001	Exiting student - evaluation required
Ref-001	General education - evaluation
Eval-001	General education - evaluation needed before reassignment
Eval-001	IEP Team meeting - evaluation, IEP Team meeting before cessation of service
Eval-004	IEE - Circumstances, no time lines for parents
Eval-004	IEE timelines
Eval-005	Information not required from all sources, parent input required
Pers-007	Licensure of psychologists
Eval-003	Multidisciplinary evaluation team - members generally
Eval-006	Multidisciplinary evaluation team - SLI
Eval-007	Multidisciplinary evaluation team - SXI
Eval-009	Observation for LD reevaluation
Eval-010	Parent consent, written
Eval-003	Parental consent, names of tests, IEE, team members
Fund-002	Prereferral consultation - involvement of special education staff
Ref-001	Prereferral consultation - reimbursement for related service personnel
Ref-001	Psychologist - counseling general education students
Eval-003	Psychologist – limited license
Eval-012	Required evaluation component missing
P&S-012	Residential care needed
Eval-011	Review of last MET evaluation
Eval-008	Speech/language eligibility - bilingual students
Eval-006	Speech/language evaluation - requirements
Eval-007	SXI – evaluation
Ref-001	Students in general education not suspected of having a disability
Fund-002	Students in general education suspected of having a disability

### Eval-001

**Subject:** Cessation of special education/return to general education

**Specific Question:** Does the IEP team have the authority to declare a student no longer eligible for special education? Is a reevaluation necessary before the cessation of a student’s special education and return to general education?

**Response:** Under both state and federal regulations, only an IEP team can determine that a student is no longer eligible for special education, and when the student is being considered to return to general education. Federal standards require a reevaluation prior to the IEP team meeting in such cases. Under federal regulations, the reevaluation of a student suspected to be no longer eligible for special education must meet the standards determined by an IEP team pursuant to a review of needed evaluation data. A reevaluation is not required for a student who is graduating or who has reached the state's age limit for eligibility.

**Federal Authority:** 34 CFR §300.534(c)(1)

### Eval-002

**Subject:** Evaluations procedures conducted by the Department of Community Health (DCH), Family Independence Agency (FIA), or other public or private agencies

**Specific question:** May a school district use psychological or social worker evaluations provided by DCH, FIA, or other public or private agency in lieu of a MET report?

**Response:** No. The evaluations may not be used in lieu of a MET report. The information submitted by public or private agencies may be submitted as part of the MET report developed by the public agency to evaluate the student's disability or to change the student's disability. The school district must use a certified school psychologist, fully licensed psychologist or an approved school social worker to review information submitted by other practitioners and to assure that the evaluations were conducted pursuant to the special education rules relating to evaluations.

These reviews will determine to what degree the report can be accepted and what additional information should be included, as necessary. The monitoring standards of the OSE/EIS require each mandated member of the MET team to make a written contribution to the MET report. The school psychologist or fully licensed psychologist must make a written contribution to MET reports for the evaluation of autism, cognitive impairment, severe multiple impairment, emotional impairment, or specific learning disability.

If school districts employ limited licensed psychologists, such persons may provide services to general education students. Under Michigan's Administrative Rules for Special Education, a limited licensed psychologist may also provide psychological services to students with disabilities as a service provided by general education. A limited licensed psychologist may not use the title of school psychologist without being certified as such by the department.

The only person qualified to do comprehensive psychological evaluations are certified school psychologists and fully licensed psychologists. This means that the certified school psychologist or fully licensed psychologist must work directly ("hands on") with the child. The certified school psychologist or the fully licensed psychologist cannot fulfill his/her responsibilities by reviewing and signing an evaluation done by a lesser trained person. Such a practice would be inconsistent with the rules, would be poor practice on the part of the school district, and could be subject to challenge. School districts that utilize a fully licensed psychologist should be aware that not all fully licensed psychologists are trained to do educational evaluations, and evaluations done by persons without sufficient educational training could lead to problems in hearings or legal actions against the school district.

A limited licensed psychologist who is not certified as a school psychologist is not qualified to provide psychological services to students with disabilities as may be indicated by their individualized education programs. Also, unless certified as a school psychologist, a limited licensed psychologist is not qualified to replace a school psychologist on a MET for the evaluation of autism, cognitive impairment, severe multiple impairment, emotional impairment, or specific learning disability. Finally, a limited licensed psychologist position is not reimbursable from special education funds.

If school districts employ certified social workers, such persons may provide social work services to general education students. Under Michigan's Administrative Rules for special education, a certified social worker may also provide social work services to students with disabilities as a service provided by regular education. A certified social worker may not use the title of school social worker without approval as such by the department.

A certified social worker who is not approved as a school social worker is not qualified to provide school social work services to students with disabilities as may be indicated by their individualized education programs. Also, unless approved as a school social worker, a certified social worker is not qualified to replace a school social worker on a MET for the evaluation of autism or emotional impairment. Finally, a certified social worker position is not reimbursable from special education funds.

Information compiled by a certified social worker employed by a school district may be considered as part of a MET report. Such data may not be the only information used by the MET team. These data must be reviewed by a school social worker who will determine to what degree the report can be accepted and what additional information should be included, as necessary. The monitoring standards of the OSE/EIS require each mandated member of the MET team to make a written contribution to the MET report. The school social worker must make a written contribution to the MET report for evaluation of autism or emotional impairment. The approved school social worker must work directly with the student. This requires a minimum of an observation, consultation, or additional evaluation.

**Federal Authority:** 34 CFR 300.530

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#### Eval-003

**Subject:** Evaluation of students with disabilities or who are suspected to have disabilities

**Specific question:** Questions related to evaluation

**1. When does the parent have to give consent for the public educational agency to conduct a special education evaluation?**

**Response:** The parent must give consent for any evaluation or reevaluation conducted by the public school district. If the parent does not give consent, the public school district may request a hearing to seek the authority to conduct an evaluation without parent consent.

**2. Is it necessary to secure parent permission for medical evaluations and personality tests?**

**Response:** Yes, as above. For medical (re)evaluations or personality tests, parent permission must be secured.

**3. Is it necessary to provide the parent with the name of each test to be given in an evaluation for special education?**

**Response:** No. It is only required to inform the parent of the type of test to be given (achievement, intelligence, etc.).

**4. Who must be a member of the multidisciplinary evaluation team?**

**Response:** The MET is a team of at least two persons responsible for evaluating students suspected of having a disability. At least one of the team members must be a special education approved teacher or other specialist with knowledge in the area of suspected disability. The Revised Administrative Rules for Special Education specify the minimum MET team membership for each suspected disability.

**5. Does the definition of psychologist include psychologists with a limited license issued by the state?**

**Response:** No. "Psychologist" means a certified school psychologist, a school psychologist with a preliminary certificate, or a psychologist who is fully licensed by the Department of Consumer and Industry Services.

**State Authority:** R 340.1701b(b), R 340.1702 et seq., R 340.1799e,

**Federal Authority:** 34 CFR §300.505, 34 CFR 300.503(b)(4)

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#### Eval-004

**Subject:** Independent Educational Evaluation (IEE)

**Specific Question:** When may a parent exercise his/her right to an IEE at public expense? How many days after receiving an evaluation does the parent have to decide if an IEE at public expense is desired?

**Response:** A parent may exercise his/her right to an IEE whenever they disagree with an evaluation obtained by the public agency. If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as for the public agency. Otherwise, the district cannot impose conditions or timelines related to obtaining an IEE.

**State Authority:** R 340.1723c

**Federal Authority:** 34 CFR §300.502(e)

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#### Eval-005

**Subject:** Evaluation Procedures

**Specific question:** Must the multidisciplinary evaluation team (MET) report for a student with a suspected disability include information from all of the sources listed in R 340.1721a?

**Response:** The MET report must be drawn from a variety of sources of information which, taken together, are adequate to address all of the evaluation requirements for each suspected disability. The evaluation requirements are given for each area of disability in R 340.1703 – 340.1716 and at R 340.1721a. The point of the language in federal regulations at 34 CFR §300.535(a)(1) is to ensure that more than one source of information is used in interpreting evaluation data and determining a disability. Although the language includes a list of examples of sources, the agency would not have to use all of the sources in every instance. An exception is parent input.

**State Authority:** R 340.1703 – 340.1716; 340.1721a, R 340.1721a(2)(b)

**Federal Authority:** 34 CFR §300.535(a)(1)

**Additional Information:** See discussion at 34 CFR 300, Attachment 1, Analysis of Comments and Discussion, p. 12636.

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#### Eval-006

**Subject:** Multidisciplinary team for speech and language impairment

**Specific question:** Is a full multidisciplinary team evaluation required for students with only a speech or language impairment?

**Response:** Yes. Definitions are given in R 340.1710 for a determination of eligibility for a speech or language impairment. The multidisciplinary team must consist of at least two persons who are responsible for evaluating

students suspected of having a disability. The team must include one special education approved teacher or other specialist with knowledge in the suspected area of impairment.

**State Authority:** R 340.1701b(b), R 340.1710

**Federal Authority:** 34 CFR §300.530

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#### Eval-007

**Subject:** Evaluation personnel for severe multiple impairment (SXI)

**Specific question:** What is the minimum membership of a multidisciplinary evaluation team for determination of eligibility for the disability category of severely multiple impairment?

**Response:** The team must include a psychologist and must also include personnel appropriate for any categories of disability in the physical domain (physical or other health impairment, hearing impairment, visual impairment).

<u>Suspected impairment</u>	<u>Cognitive Domain</u>	<u>Physical Domain</u>
Cognitive Impairment, 340.1705	Psychologist	
Hearing Impairment, 340.1707	Psychologist	Otolaryngologist or Otologist
Visual Impairment, 340.1708	Psychologist	Ophthalmologist or Optometrist
Physical Impairment, 340.1709	Psychologist	Orthopedic surgeon, Internist, Neurologist, Pediatrician
Other health impairment, 340.1709a		or any other physician approved by Michigan law

**State Authority:** R 340.1707, 340.1708, 340.1709, 340.1709a, 340.1714, Public Health Code, 333.16001 et seq., Part 170, 175, and 180

**Federal Authority:** 34 CFR §§300.7, 300.530

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#### Eval-008

**Subject:** Special education programs and services for bilingual children

**Specific question:** What must be considered in determining if students from different ethnic or racial groups are eligible for special education?

**Response:** A student with limited English proficiency is not eligible for special education if the student does not otherwise meet the eligibility criteria set forth in state and federal rules. Tests and other evaluation materials must be selected and administered so as to be nondiscriminatory on a racial or cultural basis and must be administered in the child's native language or other preferred mode of communication, unless it is clearly not feasible to do so. Assessments must measure the extent to which a student has a disability, rather than measuring the student's English language skills.

**Federal Authority:** 34 CFR §§300.532(a), 300.534(b)(i)

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#### Eval-009

**Subject:** Observation for a LD reevaluation

**Specific Question:** Must the district always complete an observation for a LD reevaluation?

**Response:** No. The district is only required to complete an observation for the initial evaluation, or when the Evaluation Review for a reevaluation determines that an observation is needed.

**State Authority:** R 340.1713(4)

**Federal Authority:** 34 CFR §300.542

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#### Eval-010

**Subject:** Parental consent, written

**Specific Question:** Must the district obtain written consent from the parent for an evaluation following an Evaluation Review that determines that the additional evaluation is necessary?

**Response:** For a reevaluation, the district must request written consent from the parent(s) but may proceed unless consent is refused..

**Federal Authority:** 34 CFR §300.505

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#### Eval-011

**Subject:** Review of last MET evaluation

**Specific Question:** Since an evaluation by a MET is not required except for an initial evaluation, must the monitor review the last MET evaluation that was done, even if 6-7 years old?

**Response:** Yes

**State Authority:** R 340.1701b(b); R 340.1721a

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**Eval-012**

**Subject:** Required evaluation component missing

**Specific Question:** Must a district redo an evaluation by a MET if a required component is missing?

**Response:** Yes

**State Authority:** R 340.1701b(b); R 340.1721a

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## Chapter 5 Evaluation (Continued)

EvalRev	Evaluation Review
EvalRev-001	Add or drop a service
EvalRev-002	Doctor's signature or documentation for OHI
EvalRev-003	Parent notification
EvalRev-004	Required for initial evaluation
EvalRev-005	Required for all types of evaluation
EvalRev-006	"Resetting the clock"
EvalRev-007	Student no longer eligible for special education
EvalRev-008	Timeline between Evaluation Review and reevaluation IEP
EvalRev-009	When considering a change of disability

### EvalRev-001

**Subject:** Add or drop a service

**Specific Question:** Must the district complete an Evaluation Review to add or drop a service?

**Response:** No. The IEP team determines the appropriate programs and services for a student. (Note: R 340.1745 requires a diagnostic report provided by an authorized provider of speech and language services prior to initiating and continuing speech services.)

**Federal Authority:** 34 CFR §300.533

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### EvalRev-002

**Subject:** Doctor's signature or documentation

**Specific Question:** If a student presently is eligible as a student with Other Health Impairment (OHI), must the district obtain a doctor's signature or documentation if the Evaluation Review determines no additional testing is required and eligibility is not in question?

**Response:** No. The initial determination of eligibility as OHI, documented in the MET report requires a physician's statement.

**Federal Authority:** 34 CFR §300.533

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### EvalRev-003

**Subject:** Parent notification

**Specific Question:** Must the district notify the parent if the Evaluation Review determines that no further testing is needed?

**Response:** Yes. The district must inform the parent about that determination and the reasons for it, and about the parent's right to request a reevaluation to determine whether the student continues to be a student with a disability.

**Federal Authority:** 34 CFR §300.533

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### EvalRev-004

**Subject:** Evaluation Review required for an initial evaluation

**Specific Question:** Is an Evaluation Review required for an initial evaluation?

**Response:** No. An Evaluation Review is optional for an initial evaluation.

**Federal Authority:** 34 CFR §300.533

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### EvalRev-005

**Subject:** Evaluation Review required for all types of evaluation

**Specific Question:** Is an Evaluation Review required for all types of evaluation?

**Response:** No. An Evaluation Review is required at least once every 36 months, or when the parent or teacher requests an evaluation, in writing, or when considering changing, adding or removing a disability category.

**Federal Authority:** 34 CFR §300.533

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**EvalRev-006**

**Subject:** “Resetting the clock” on a reevaluation or Evaluation Review

**Specific Question:** What is the exact date that "resets the clock" on a reevaluation?

**Response:** The 36-month "clock" resets on the date of the Reevaluation IEP. An evaluation review or reevaluation does not set or reset the clock.

**Federal Authority:** 34 CFR §300.536

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**EvalRev-007**

**Subject:** Student no longer eligible for special education

**Specific Question:** Must a district always complete an evaluation by a MET when an IEP determines that a student is no longer eligible for special education?

**Response:** No. An Evaluation Review is not required prior to graduation with a regular high school diploma or when the student exceeds the age of eligibility. If the student is exiting from special education programs and services, but continuing in general education, an evaluation by a MET is required if determined necessary by the Evaluation Review, or if the parent requests a reevaluation of the disability.

**Federal Authority:** 34 CFR §300.534

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**EvalRev-008**

**Subject:** Timeline between Evaluation Review and reevaluation IEP

**Specific Question:** Is there a minimum timeline between when the Evaluation Review is completed and the completion of reevaluation IEP?

**Response:** No.

**Federal Authority:** 34 CFR §300.533

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**EvalRev-009**

**Subject:** When considering a change of disability

**Specific Question:** When considering a change of disability can the Evaluation Review determine that an evaluation by a MET is not required?

**Response:** No. To change the disability of a student an evaluation by a MET is required as defined in Rules 340.1705 – 340.1716 applicable to the disability.

**State Authority:** R 340.1705 – 340.1716

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## Chapter 6: Individualized Education Program

Code/Q#	Subtopic
Cont	Content
IDEA	IEP - 300.340-350
IDEA	FAPE - 300.300-313
IDEA	ESY – 300.309
IDEA	LRE – 300.130, 550-556
Cont-001	Addendum to IEP - not legal
D&H-005	Attendance - IEP Team authority to shorten day
Eval-008	Bilingual students - eligibility for speech/language services
P&S-012	DCH/FIA/courts - placement in residential facilities
P&S-001	ECSE program - students less than 6 years old on the State Fall Count day
P&S-009	ECSE - least restrictive environment
Fund-003	Emotional impairment - psychiatric hospitals
Cont-002	Emotional impairment – definition, eligibility, “extended period of time”
D&H-007	Extended school year - required instructional days and hours of instruction
Cont-003	General education – described in the IEP
Cont-003	General education – physical education in the IEP
Cont-004	General education programs and the IEP
Cont-005	Goals and objectives - general education and special education
P&S-006	Homebound services - pregnant students
P&S-009	Least restrictive environment – ECSE programs
Cont-006	Least restrictive environment - role of IEP Team and superintendent
D&H-005	May shorten school day
Cont-007	May specify teacher consultant with specific endorsement
Fund-006	Occupational therapy - evaluations and services for students in special education process
Cont-008	Occupational therapy - OT may be only service
Cont-003	Physical education - on the IEP
Cont-008	Physical therapy - PT may be only service
P&S-006	Pregnancy - homebound services
Cont-007	Resource room program - consideration of need for teacher consultant
Cont-003	Services, physical education, vocational education, schedule changes
Cont-009	Short-term objectives - may be for one year in duration
Cont-007	Teacher Consultant – need for TC to match student’s eligibility
Cont-010	Worksite-based learning

### Cont-001

**Subject:** Addenda to IEPs

**Specific question:** Can a school district use an addendum to communicate a revision in a student’s IEP?

**Response:** No. A student's IEP discusses the entire program for a student including involvement in general education and assessment information. Each change to the IEP requires a meeting of the IEP Team to discuss all of the interrelated components of the IEP.

**Federal Authority:** 34 CFR §300.16; 300.350(a)(1)

**Additional Information:** See also 34 CFR §300, Appendix A, Question 20, and Attachment 1, Analysis of Comments and Changes, p. 12578.

## Cont-002

**Subject:** Emotional impairment definition

**Specific question:** In the state rules for eligibility for emotional impairment, what is meant by "...problems primarily in the affective domain over an extended period of time..."?

**Response:** The phrase "over an extended period of time" in state rules (similarly, "...long period of time..." in federal regulations) is protective language so that a student would not be determined to be emotionally impaired due to acute or short term trauma such as a death in the family, serious accident or illness, or other situation that may elicit behavior that appears similar to behavior associated with chronic and pervasive emotional impairment. It is the responsibility of the IEP team to determine if a student is exhibiting chronic or acute behavior.

**State Authority:** R 340.1706(1)

**Federal Authority:** 34 CFR §300.7(4)

**Additional Information:** For some practical guidance for the IEP team discussion of this topic, see 308.3 Acute Stress Disorder in Diagnostic Criteria from DSM-IV, American Psychiatric Association, 1994.

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## Cont-003

**Subject:** ~~Subject:~~ Content of the IEP

**Specific question:** Questions related to programs and services, physical education and vocational education

**1. Must the IEP list all of the programs and services that a student needs or only those that are available?**

**Response:** The IEP must specify all of the programs and services necessary to meet the student's special education and related service needs.

**2. Must physical education be included in each student's IEP?**

**Response:** No, but specially designed physical education services must be made available if needed. If modifications are needed for the student to be able to participate in general physical education, those modifications must be described in the IEP. If a student with a disability needs a specially designed physical education program provided by special education, that program must be addressed in all applicable areas of the IEP (present level of educational performance, annual goals and short-term objectives, and services to be provided).

**3. How is the amount of time the student will participate in regular education programs stated on the IEP?**

**Response:** This can be identified on the IEP as amounts of time (e.g., time in special education, time in general education and total time. This is not technically required for the IEP but is, however, needed data for pupil accounting purposes.

**4. Does the IEP team need to be reconvened if a class schedule changes?**

**Response:** No, if the new schedule is reflected in the specifications on the IEP. A range of time or additional schedule information on the IEP is allowed if the specifications match the programs and services to be delivered and is understood by all IEP team members. If the schedule change is not reflected in the IEP then the IEP team must meet to revise the IEP.

**State Authority:** R 340.1721d

**Federal Authority:** 34 CFR §300.347(a)(3), 34 CFR §300.307, 34 CFR §300.347(a)(6)

**Additional Information:** Also see Michigan Pupil Accounting Manual, Individualized Education Program Team Manual, Michigan Department of Education.

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## Cont-004

**Subject:** General education programs and the IEP

**Specific question:** Is a school district legally responsible for providing general education programs and/or services to a student with disabilities if they are written into an IEP?

**Response:** Yes. The IEP is a written agreement between the district and the parent for the implementation of a free and appropriate public education. The intent of the IEP is to indicate how the student will be involved in, and progress in, the general curriculum. Specifications in the IEP may include modifications and accommodations in the general education setting. It is the responsibility of the district to inform all school personnel (which includes general education personnel) who work with the student of their specific responsibilities for implementing the IEP.

**Federal Authority:** 34 CFR §§300.342(a)(3), 300.347(a)(3)

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## Cont-005

**Subject:** Content of the IEP

**Specific question:** Are annual goals and short-term objectives written in the IEP for special education programs and services, general education programs, or both?

**Response:** The IEP must contain annual goals and short-term objectives related to meeting all of the child's needs to enable the child to be involved in, and progress in, the general curriculum, or for preschool children, as appropriate, to participate in appropriate activities; and meeting each of the child's other needs that result from the child's disability. Special education support indicated by the goals and objectives may occur in either special or general education settings as determined by the IEP team.

**State Authority:** R 340.1721e(2)

**Federal Authority:** 34 CFR §300.347(a)(2)

**Additional information:** See discussion at 34 CFR 300 Appendix A, Question 2, and Attachment 1 – Analysis of Comments and Changes, p. 12591-6, Federal Register, v. 64, n. 48. Also see Individualized Education Program Team Manual, Michigan Department of Education.

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#### Cont-006

**Subject:** IEP - Least restrictive environment

**Specific question:** Questions regarding the least restrictive environment and the IEP

**1. What must the IEP contain regarding least restrictive environment?**

**Response:** The IEP must identify: (1) the extent to which the student will not participate with nondisabled students in the general education program, (2) the extent to which the student will not participate in the general curriculum, and (3) the extent to which the student will not participate with nondisabled students in extracurricular and nonacademic activities.,

**2. Does the IEP team assign students to special education programs in the least restrictive environment?**

**Response:** The IEP team determines the location of services which, in the context on an IEP, means the type of setting that is the appropriate place for provision of the service. The geographic location may be assigned by the district.

**Federal Authority:** 34 CFR §300.347(a)(3-4), 34 CFR §300.347(a)(6)

**Additional Information:** In regard to “location” refer to the discussion at 34 CFR 300, Attachment 1 – Analysis of Comments and Changes, p. 12594 of the Federal Register. Also see Individualized Education Program Team Manual, Michigan Department of Education.

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#### Cont-007

**Subject:** Assignment of students to teacher consultant

**Specific question:** When the IEP team decides that teacher consultant services are appropriate, can a student with a disability be assigned to any teacher consultant or must the teacher consultant be approved in the area that matches the student’s eligibility label?

**Response:** When a student is placed in a resource program in which the teacher’s endorsement does not match the student’s eligibility label, the IEP team must consider the need for a teacher consultant with a matching area of endorsement. The IEP may also specify a teacher consultant with a specific endorsement. When the IEP does not specify a teacher consultant with a particular endorsement, assignment of staff to students is an administrative function.

**State Authority:** R 340.1749a(5), 340.1749b(4), R 340.1721e(3).

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#### Cont-008

**Subject:** Related service providers (e.g., occupational and physical therapists, teachers of the speech and language impaired, school social workers, teacher consultants)

**Specific question:** May special education related services be provided to students who receive no other special education programs or services?

**Response:** Yes, but the student must be determined to be eligible for special education by an individualized education program team (IEP team). For students who have not been determined to be eligible for special education by an IEP team, related services may also be provided and funded as a general education service (see **Fund-006**).

**State Authority:** R 340.1702

**Federal authority:** 34 CFR §300.7(a)(2)(ii)

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#### Cont-009

**Subject:** Short-term objectives

**Specific question:** Can a short-term objective be written for one year in duration?

**Response:** Yes. A short-term objective represents expected achievement over several weeks or months, but for not more than 1 year. In any case, each annual goal must have a minimum of two short-term objectives.

**State Authority:** R 340.1721e(2)(b)

**Federal Authority:** 34 CFR §300.347

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#### Cont-010

**Subject:** Worksite-based learning

**Specific question:** Is the worksite-based learning plan/agreement a part of the IEP or is it the only document required?

**Response:** An IEP is required for all students receiving special education. A worksite-based learning plan/agreement is required for all students receiving worksite-based learning services. The worksite-based learning plan/agreement is not required to be a part of the IEP, although it may fulfill the requirement in the IEP to address employment and other post-school living objectives for transition services for students of appropriate age. The district must assign professional special education personnel to coordinate these services. Special education teachers must be assigned to supervise such services.

**State Authority:** R 340.1733(I)

**Additional Information:** Also see the Individualized Education Program Team Manual, Michigan Department of Education

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#### Cont-011

**Subject:** Services – Early Childhood Special Education – R 340.1755

**Specific question:** In relation to R 340.1755 services, must the IEP identify the specific related services that are provided to the student on the IEP?

**Response:** The IEP team must write either " R340.1755 Services", or "Early Childhood Special Education Services", with R340.1755 cited within the IEP. The IEP must complete the frequency/duration/location information. If the student receives additional related services that are not provided under R340.1755, the IEP must identify those services.

**State Authority:** R 340.1755

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## Chapter 7: Individualized Education Program Team

Code/Q#	Subtopic
Part	Participants
IDEA	IEP – 300.344, 345
Part-001	Adult student - IEP Team role
Cont-006	Assignment to program - role of IEP Team and superintendent
Part-001	Guardians - IEP Team role
Part-001	IEP Team meeting – role of parents
Cont-006	Least restrictive environment - role of IEP Team and superintendent
Proc-005	Notice requirements - IEP Team meetings
Cont-006	Placement - role of IEP Team and superintendent

### Part-001

**Subject:** Legal guardians and adult students at the IEP team meeting

**Specific question:** Questions regarding legal guardians and adult students at the IEP team meeting

**1. What is the role of a surrogate parent or legal guardian at the IEP team meeting?**

**Response:** A legal guardian (appointed by a court) or a surrogate parent (appointed by an agency) represents the interests of the student in the decision-making process when that student has no parent to do so. At the IEP team meeting, the surrogate parent or legal guardian has all of the rights and responsibilities as parents under the law.

**2. May parents attend the IEP team meeting when the student reaches the age of majority?**

**Response:** Yes. Section 300.517(1)(i) states the parent is entitled to notice of all IEP team meetings. The requirement to schedule the meeting at a mutually agreeable time and place is determined with the student who has reached 18 and has no guardian. The parent may attend, but has no legal decision-making authority unless the parent also happens, by court order, to be the legal guardian.

**3. If the student has reached the age of majority and does not have a legal guardian, can the student's parents appeal the IEP team decision?**

**Response:** No. Under Michigan law, any person who is age 18 or older and who does not have a guardian makes decisions on their own behalf.

**State Authority:** R 340.1701b(e)

**Federal Authority:** 34 CFR §300.20, 300.515, 300.517 and Commentary.

**Additional Information:** Also see the Michigan State Plan for Special Education, Appendix P.

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## Chapter 7: Individualized Education Program Team (Continued)

Code/Q#	Subtopic
Proc	Procedures
Proc-001	Auxiliary services - IEP Team meeting conducted by LEA where nonpublic school is located
Eval-001	Cessation of special education/return to general education
Proc-002	Dropouts - IEP Team meeting not required
Proc-002	Exit IEP - not required if student moves or drops out
Proc-003	IEP Team meeting - at parent or teacher request
P&S-011	IEP Team meeting - for transfer students with a previous IEP
Proc-005	IEP Team meeting – invitation to, requirements
Proc-005	IEP Team meeting - prior notification, parent participation, invitation
Cons-001	IEP Team meeting - required if parent wants student out of special education
Proc-006	IEP Team meeting - required when student reassigned and new program has different designation
Cont-001	IEP Team meeting - required for any change in programs or services; no addendum allowed
Eval-005	IEP Team meeting - resident district is responsible for student at MSD or MSB
Proc-001	IEP Team meeting - responsibility of resident district; local LEA for nonpublic student
Cont-006	Least restrictive environment - role of IEP Team and superintendent
Eval-005	MSD or MSB - IEP Team meeting is responsibility of resident district
Proc-004	Parent notification of the IEP meeting

### Proc-001

**Subject:** Conducting IEP team meetings

**Specific question:** Questions relating to responsibility to conduct IEP team meetings

**1. Who conducts the initial IEP team meeting for a student with a suspected disability?**

**Response:** The district of residence is responsible for conducting the initial IEP team meeting. However, if the student is attending a nonpublic school and receiving special education services under the Auxiliary Services Act (see **P&S-002**) then the public district where the nonpublic school is located is responsible to conduct the IEP team meeting.

**2. Who conducts IEP team meetings, after the initial meeting, for a student who is placed in a special education program outside of the district of residence?**

**Response:** The resident district must conduct the meeting or authorize the operating district to conduct each subsequent IEP team meeting after the initial meeting. For students in nonpublic schools receiving services under the Auxiliary Services Act, the district responsible for providing service is responsible for conducting the IEP team meeting.

**State Authority:** R 340.1721c(1)

**Federal Authority:** 34 CFR §300.110

### Proc-002

**Subject:** Exit IEP team meetings

**Specific question:** Must the operating district hold an exit IEP team meeting for students who move, drop out, graduate, or exhaust their school eligibility due to age?

**Response:** The popular term “exit IEP” does not appear in state or federal laws. The student’s last IEP before graduating, pursuant to the periodic annual review, should describe the IEP team’s decision regarding anticipated completion of graduation requirements and any further needed transition services. An IEP meeting is not required solely because of, and just prior to, graduation or because the student exhausts the age limitations for education. The district is not responsible for IEP team meetings for students who are no longer an officially enrolled student of the district because of change of residence or dropping out. For students suspected to be no longer eligible for special education and who continue enrollment in general education, an evaluation review, a reevaluation, and an IEP Team meeting are needed to redetermine eligibility.

**State Authority:** School Code, §380.1751, R 340.1702

**Federal Authority:** 34 CFR §§300.534(2), 300.342(a)

**Additional Information:** See **Eval-002**

### Proc-003

**Subject:** Initiation of IEP team meetings

**Specific question:** May parents and teachers initiate IEP team meetings?

**Response:** Both parents and teachers may initiate IEP team meetings. IEP team meetings can be initiated through the initial referral process (see **Ref-001**). The district must ensure that reviews of the IEP are conducted at least annually. IEP team meetings must also be conducted at any time during the year to address: (1) any lack of progress toward annual goals, (2) the results of any reevaluation, (3) information about the child provided by the parents, (4) the child's anticipated needs or (5) other matters. If the district decides that a request to convene an IEP team meeting will not be honored, then notice must be provided that indicates why the district refuses to take action.

**Federal Authority:** 34 CFR §300.343(c), 300.503

**Additional Information:** See discussion at 34 CFR 300, Appendix A, Question #20, Federal Register, v. 64, n. 48, p. 12476.

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### Proc-004

**Subject:** Parent notification of the IEP meeting

**Specific question:** Must a parent be notified before an IEP team meeting is convened?

**Response:** Yes. The district must contact the parent to arrange a mutually convenient time and place for the meeting and explain the purpose of the meeting and the roles and responsibilities of each participant. If neither parent can attend, the district shall use other methods to assure parent participation, including individual or conference telephone calls. The IEP meeting may be conducted if the district is not able to convince the parent to attend. The district should keep detailed records of attempts made to contact the parent.

**Federal Authority:** 34 CFR 300.345

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### Proc-005

**Subject:** IEP team meetings for changes in teacher assignment

**Specific question:** If a new special education teacher is assigned to a program and the new teacher's endorsement does not qualify the teacher to provide the previous program, must an IEP team meeting be convened for each student involved in the change of classroom program designation?

**Response:** Yes. When the classroom program designation changes, each affected student's IEP must be changed to the program designation. The change must be appropriate to meet the student's educational needs.

**Federal Authority:** 34 CFR §300.347(a)(3)

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### Proc-006

**Subject:** IEP team meetings for students reassigned within an LEA

**Specific question:** Is an IEP team meeting required if the student is moved from one school building to another within the same local district?

**Response:** A new IEP for a new physical location is not required if all of the programs and services on the IEP are to be implemented exactly as at the previous location. The superintendent or designee must notify the parent of this administrative decision. The notice shall identify where the programs and services are to be provided and when the IEP will continue in the new location.

**State Authority:** R 340.1722a

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## Chapter 8 Nonpublic Schools

<b>Chapter 8</b>	
<b>Code/Q#</b>	<b>Topic</b>
<b>NPS</b>	<b>Nonpublic Schools</b>
IDEA	300.403, 450-462
P&S-008	Home or daycare is least restrictive environment for preschool
Proc-001	LEA is responsible for IEP Team meeting
P&S-002	Local public school must provide auxiliary services
Fund-009	Out-of-state placements
NPS-001	Speech/language services not required to be provided at nursery school

### NPS-001

**Subject:** Assignment of special education personnel to private preschools or daycare

**Specific question:** Are districts obligated to assign related service staff to private preschools?

**Response:** Related service staff would need to be assigned to provide special education service to a child attending a private preschool in the district if such a location is determined to be the child's natural environment in service considerations for young children ages 0 through 35 months under Part B (as specified on an IEP) or Part C (as specified on an IFSP) of the IDEA. Otherwise, the Auxiliary Services Act for services to students in nonpublic schools does not apply to preschools (see **I-003**). Since intermediate and local districts are responsible to provide related services to preschool-age children, it is permissive to offer the service at a private preschool, daycare, or another location consistent with the child's IEP.

**State Authority:** See **P&S-002**.

**Federal Authority:** 34 CFR §303.12(b)

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## Chapter 9: Parents

Code/Q#	Topic
<b>Par</b>	<b>Parents</b>
IDEA	Parent - 300.20
IDEA	Surrogate - 300.515
Par-001	Parent Advisory Committee (PAC) – foster parents ineligible for membership
Part-001	Parent - role of parent when student is an adult

### Par-001

**Subject:** Membership of a foster parent on the parent advisory committee

**Specific question:** Can a foster parent be a member of the parent advisory committee?

**Response:** No. The parent advisory committee is not a provision of federal regulations, which define the term “parent” differently than Michigan rules. For the purposes of membership on the parent advisory committee under Michigan rules, a parent is defined as the mother, father, or legally designated guardian of the student with a disability. A foster parent, therefore, is not included within the definition of parent for membership on the parent advisory committee.

**State Authority:** R 340.1701b(f), 340.1838(a)

**Federal Authority:** 34 CFR §300.20

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## Chapter 10: Referral

Code/Q#	Topic/subtopic
<b>Ref</b>	<b>Referral</b>
IDEA	Sections 300.530-.543 (See pp12632-12637 Attachment I)
Ref-001	Homebound/hospitalized services - referral for
Ref-001	Initial referral

### Ref-001

**Subject:** Referral for special education programs and services

**Specific question:** Questions related to the referral

#### 1. What is a referral?

**Response:** A referral is any written request for: (1) an initial special education evaluation for a student suspected to be in need of special education programs or services, or (2) an evaluation of a student already receiving special education and suspected to be in need of additional or reduced special education programs or services. The referral must be in writing unless the person making the referral cannot write in which case the district shall provide whatever assistance is necessary to be informed of, and submit, the referral.

#### 2. Who can make a referral?

**Response:** A parent or guardian, a licensed physician, registered nurse, social worker, or school or other appropriate professional personnel whose training and relationship to the student provides knowledge to reasonably suspect that the student has a disability.

#### 3. What needs to be done upon receipt of an initial referral?

**Response:** Within ten (10) calendar days the school district must inform the parents of a receipt of a referral and request consent to conduct the evaluation. An initial evaluation may be preceded, as appropriate, by a review of existing evaluation data by the IEP team. A multidisciplinary evaluation team (MET) must complete an evaluation and an IEP team meeting must be completed no later than 30 school days from the date of parent consent for evaluation. This timeline may be extended if agreed to by the parent and the public agency. The purpose of the IEP team meeting is to determine eligibility and, if the student is found eligible, write an IEP.

#### 4. If a student is already receiving special education and school staff or a parent wants to consider different special education programs(s) and/or service(s), is a referral required?

**Response:** A new referral may be initiated, but is not required. The IEP team determines the appropriate programs and services for a student and may add or drop a service or program in the IEP team meeting. (Note: R 340.1745 requires a diagnostic report provided by an authorized provider of speech and language services prior to initiating and continuing speech services.)

When considering a change in special education programs or services, an evaluation review and a reevaluation is not required.

Whether initiated by a referral or by an evaluation review, parent consent must be requested for any reevaluation, but the reevaluation may proceed unless parental consent is refused. The reevaluation must be completed and an IEP team meeting convened to consider revision of the student's IEP within a reasonable time. Because of the requirement at 34 CFR 300.505, the parent must be informed in writing of the date by which the evaluation will be concluded and the student's IEP team meeting convened.

Adding, changing, or removing a disability category requires an evaluation by a multidisciplinary evaluation team (MET). Therefore, an evaluation review and request for parent consent is necessary. The district must also honor a parent request for an evaluation by a MET pursuant to any reevaluation.

#### 5. Are requests for homebound/hospitalized services considered a referral?

**Response:** The request is not necessarily a request for an evaluation or reevaluation. However, when it is anticipated that the pupil will be out of school for more than five consecutive days, the parent is to notify the district, with verification from a licensed physician, of a medical impairment which requires the eligible special education student to be confined to the home. The district must initiate the service as soon as possible but no later than three days after being notified by the parent. The district must conduct an IEP team meeting within 15 school days after verification.

#### 6. Is a request for a general education evaluation considered a special education referral?

**Response:** No, unless there is a reason to suspect the child is a student with a disability.

**State Authority:** R 340.1721, 340.1721a-e, 340.1746; School Code, 380.1711(1)(j)

**Federal Authority:** 34 CFR §§300.500(b)(1), 300.505, 300.532-533

**Additional Information:** See also Homebound and Hospitalized Service for Public School Pupils, Michigan Department of Education.

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## Chapter 11: Transportation

Code/Q#	Topic/subtopic
<b>Tran</b>	<b>Transportation</b>
Tran-001	DCH/FIA - transportation of students from facilities to school
Tran-001	Emotional impairment - transportation when disruptive
Tran-002	Responsibility for, destination, etc.
Tran-001	Suspension - from transportation
Tran-001	Suspension - alternatives

### Tran-001

**Subject:** Transporting disruptive students

**Specific question:** What procedures are school districts to use for suspension and/or exclusion of disruptive special education students on school busses?

**Response:** Suspension or expulsion from transportation is not considered a denial of educational rights if a student with a disability does not require special transportation (as specified on an IEP) but is getting bus service like other students in the general school population. If there are no transportation services specified on the IEP, the district must apply its policy equally to all students riding the bus, including students who happen to be assigned to special education programs or services.

If a student with a disability requires special transportation services (as specified on an IEP), then exclusion from transportation denies implementation of (transportation) related services of the IEP, which may also deny access to other in-school special education programs/services. In the case of a student receiving special transportation services, the district must provide, within the context of general discipline procedures, effective accommodations, modifications or alternatives to problematic special transportation services. Changes to transportation services should be specified on a new IEP. In any case, the parent of a student receiving special transportation services shall not be required to provide transportation.

If the suspension from general transportation results in a loss of access to the student's program, the suspension from transportation would be considered as a suspension for disciplinary purposes (see 34 CFR §300.519, et seq.)

**Federal Authority:** 34 CFR §§300.24(b)(15), 300.347(a)(3), Commentary on pg. 12479, Commentary on pg. 12619

### Tran-002

**Subject:** Transportation for students with disabilities

**Specific question:** Questions related to transportation for students with disabilities

#### 1. Who is responsible for providing transportation and under what conditions?

**Response:** The transportation obligation to a student with disabilities is the same as for the general education population of the resident district unless otherwise specified on the IEP. The IEP may indicate any special transportation arrangements needed to adapt the general transportation system or to provide alternative or additional transportation. Adaptations of the general transportation system typically include (but are not limited to): (1) transporting a student from a nearby area from where students are not usually transported because the student is unable to walk to school, (2) providing an aide or restraint on the bus for assistance, or (3) providing adaptive equipment such as chair restraints, harnesses, etc. Alternative or additional transportation typically includes (but is not limited to): (1) providing a specialized vehicle such as a lift bus, (2) arranging transportation for a student between resident and operating districts when they differ, (3) transporting a student between school and a site where the student will receive a related service, and (4) reimbursing the parent for providing transportation.

#### 2. Under whose jurisdiction is the student while being transported? The transporting agency, the resident district or the operating district?

**Response:** The transporting agency is responsible for transporting the student to and from the educational site.

#### 3. What responsibilities does the school district have for picking up the student and returning the student to his/her home?

**Response:** Any specific arrangements for the pick up and returning the student should be specified in the student's IEP.

#### 4. What action should a district take when a responsible person is not at the destination site to meet a student who has severe disabilities?

**Response:** The district should use the same local procedures used for other general education students, such as young children, who should not be left at a site without adult supervision.

**5. What obligation does the district have for making special transportation arrangements when the parents need to have the student delivered to and from a baby sitter, a respite care center or place other than the parent's home?**

**Response:** The district is not responsible to make daily changes in the daily permanent pick-up site for the convenience of the parent. Transporting the student to a site other than the permanent pick-up site may be done at the discretion of the district.

**6. Who is responsible for transportation needed to provide related services to students with disabilities in nonpublic schools?**

**Response:** Under the Auxiliary Services Act, the related service must be offered on an equal basis at the nonpublic school.

**7. Who is responsible for transportation of a student with a disability to and from a public school academy (PSA)?**

**Response:** A PSA is considered a local school district and is responsible for following the same legislative guidelines for transporting students as a local school district. If special transportation is specified on the IEP as a related service then the PSA must also provide this related service to the student with a disability.

**State Authority:** R 340.1701b(c)(v), 340.1721e(3)(f), 340.1722(3)(e); 6. Michigan School Code, 380.1751(1); Michigan Public School Academies (Charter Schools) Questions and Answers, Michigan Department of Education, June 1998, pp. 5 and 9)

**Federal Authority:** 34 CFR 300.24(b)(15)

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